



CITY OF DULUTH
Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 14-069	Contact	Jenn Reed Moses, jmoses@duluthmn.gov
Application Type	Interim Use Permit	Planning Commission Date	July 8, 2014
Deadline for Action	Application Date	June 2, 2014	60 Days August 1, 2014
	Date Extension Letter Mailed	June 19, 2014	120 Days September 30, 2014
Location of Subject	815 Lake Avenue S		
Applicant	Mary DuBois	Contact	218-428-0254, trellis2@aol.com
Agent	N/A	Contact	N/A
Legal Description	PIDs 010-4380-02310, 010-4390-01170		
Site Visit Date	N/A	Sign Notice Date	June 23, 2014
Neighbor Letter Date	June 24, 2014	Number of Letters Sent	30

Proposal

Applicant would like to use her house as a vacation rental property. A vacation dwelling unit allows rentals for 3 to 21 days.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	R-1	Residential	Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood
West	N/A	N/A	N/A

Summary of Code Requirements (reference section with a brief description):

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in an R-1 District.

UDC Sec. 50-37.10.B ... Council shall make, a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below. The ... Council may impose appropriate conditions and safeguards, including but not limited to financial security pursuant to Section 50-37.1.P, a development agreement regarding the design, construction, and operation of the special use, to protect the Comprehensive Land Use Plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the special use permit will continue to met.

UDC Sec. 50-37.10.E ... the Council shall only approve an interim use permit, or approve it with conditions, if it determines that:

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location or to allow the city time to develop a regulation addressing the potential longer term impacts of the requested use in that location;
2. The applicant agrees to sign a development agreement with the city confirming that (a) approval of the permit will not result in increased costs to the city if the property is later acquired by the city through eminent domain; (b) the use will be terminated at the applicant's expense on the date(s) stated in the permit, (c) the termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures of improvements related to the use, and (d) the applicant agrees to all conditions imposed by the city. No interim use permit shall be issued until a development agreement confirming these points is executed.

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Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Governing Principle #5 - Strengthen neighborhoods

Future Land Use - Traditional Neighborhood: Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home-businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

Staff finds that:

- 1.) Applicant is applying for an Interim Use Permit. A time limit on this Interim Use is needed to verify that the Vacation Dwelling Unit can function without negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. The Permit shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 2.) Property is a single-family house with 3 bedrooms. Applicant is proposing to allow a maximum of 7 guests. Current driveway allows space for at least two cars, and applicant is also planning a driveway expansion, which would allow more off-street parking.
- 3.) An existing 6' fence on the north side provides a buffer to adjacent property. Applicant is also proposing a cedar hedge where the driveway abuts the southern neighbor's outdoor space. The proposed fire pit is located far from neighbors.
- 4.) The minimum rental period shall not be less than 2 nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than 5 nights.
- 5.) Applicant has hired a property manager who lives on Park Point.
- 6.) Applicant has completed an inspection from the Minnesota Department of Health as part of the process for obtaining a Lodging License, and one with the City's fire prevention officer. She has provided tax identification numbers, and has applied for both a Hotel/Motel License and a Tourism Tax permit.
- 7.) No public, agency, or City comments were received.
- 8.) According to UDC Section 50-37.N, an approved interim use permit shall lapse if the project or activity is not begun within 1 year of the permit date.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, Staff recommends that Planning Commission recommend approval of the Interim Use Permit, subject to the following conditions:

- 1.) The Interim Use Permit shall not be effective until the applicant has provided evidence that the required notice has been sent to property owners within 100 ft.
- 2.) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 3.) The applicant shall adhere to the terms and conditions listed in the interim use permit document.
- 4.) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

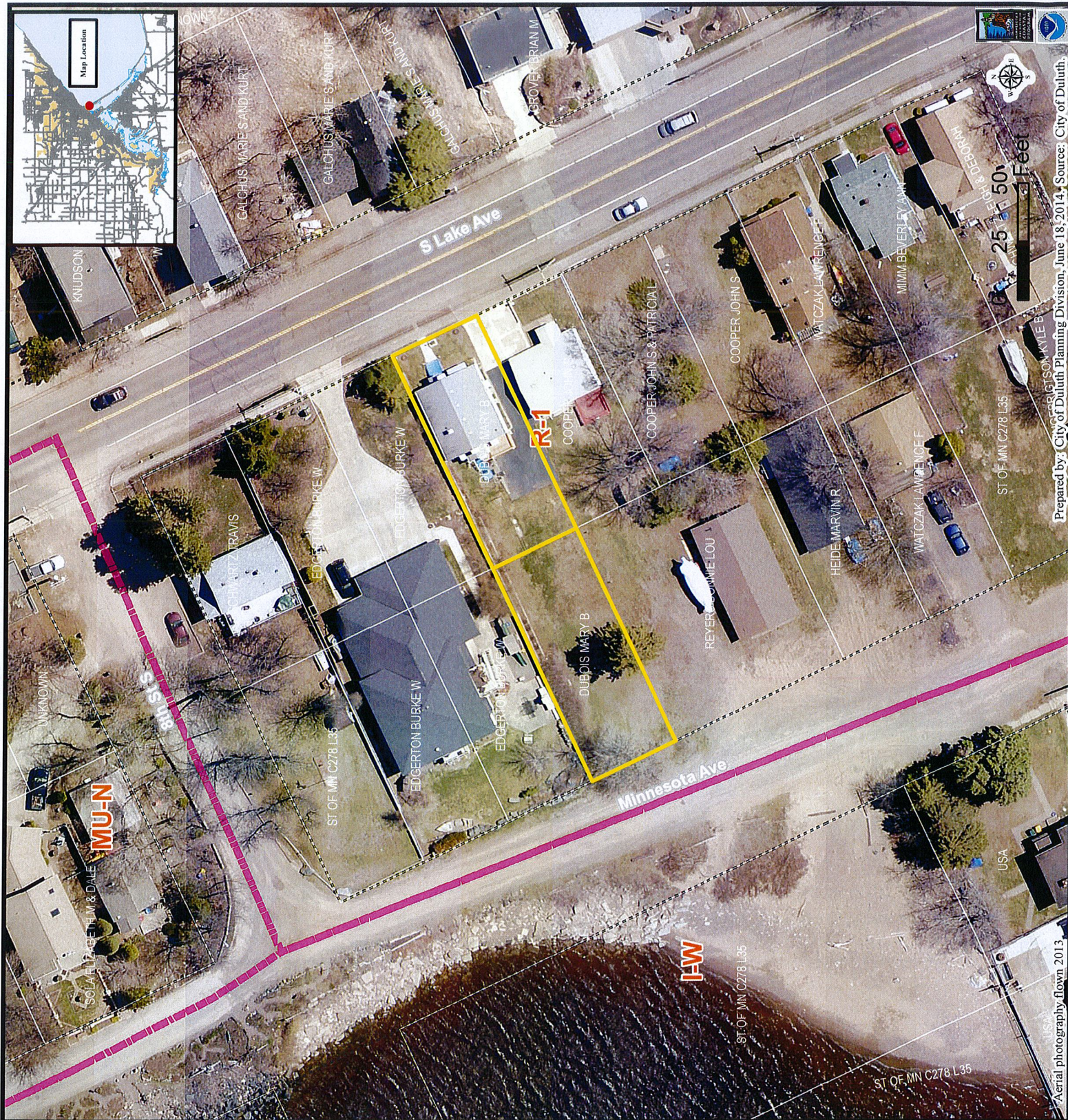
Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)

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PL 14-069

IUP - Vacation Dwelling Unit
815 S Lake Avenue



Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, June 18, 2014. Source: City of Duluth.

Legend

Zoning Boundaries

Right-of-Way Type


Road or Alley ROW

☐ Vacated ROW

Easement Type

 Utility Easement

Category	Percentage
Family Assessment	100%
Other Assessment	0%



Office Lasemenn

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

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815 Lake Avenue S

Site Photos



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LAKE AVENUE

SIDEWALK

CH/B
OUT

SITE PLAN

N

Existing 6' Fence

PATIO

CAR #1

HOUSE

CAR #2

Existing 6' Fence

Existing Privacy Features:

DECK

Proposed Privacy Feature:
'Green' columnar cedars

Present 6' ft fence along entire line this side

PATIO

DRIVEWAY EXPANSION

Spruce Tree

Existing 6' Fence

Proposed Fire Pit

Scale: 1 block = 4'
or
1" = 24'

MINNESOTA AVENUE

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Mary DuBois
815 Lake Avenue South
Duluth, MN 55802

Ms. Jenn Reed Moses and Mr. Kyle Deming
Planning Division
Room 208
411 West First Street
Duluth, MN 55802

May 28, 2014

Dear Ms. Moses and Mr. Deming,

Enclosed please find my application for an Interim Use Permit for my home at 815 Lake Avenue South in Duluth. I have completed all of the materials we discussed at the pre-application meeting, and I have been working toward compliance and taken preliminary steps for all of the vacation dwelling unit requirements, as follows:

- Completed application for a hotel/motel license. Copy attached. I'll mail this, along with the \$82 fee, when interim use is approved.
- Completed permit (copy attached) for the City of Duluth Tourism Tax form received from my meeting with Ruthann Grace. Mailed May 28, 2014.
- Made plans to use my present business and tax numbers for necessary tax collection and remittance. Completed paperwork with the Minnesota Department of Revenue, May 28, 2014.
- Held preliminary meeting at my home with the city's fire prevention officer on May 14. John gave good advice, and I will be making necessary building changes (one egress issue, one firewall prevention with tuck-under garage issue) once Interim use is approved, and then get my final inspection and permit once those construction changes have been made.
- Spoke with Sara Schaffer from the State Department of Health and perused their website for necessary application materials. She will be visiting the home in mid-June for her preliminary inspection and measurement process.
- Hired a property manager who lives on the point and who is familiar with rental units and can be at the property within ten minutes in an emergency.

My home is perfect for vacation rental use. The location is only a little over one block away from the aerial lift bridge, and will not have a negative effect on my neighborhood. I have two lots in total so that the back lot is very private, and my neighbor has already fenced all along the Northern property line with a fence around 6 feet high, thus shielding that neighbor's home that borders my property, including the back lot. I have plenty of off-street parking in my

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present driveway for my 3-bedroom home, and I recently remodeled and updated all surfaces, so the home is clean and attractive.

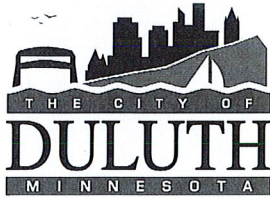
Soon I will be finishing the landscaping and 'curb' appeal of my old 1940's home, which only improves the neighborhood and real estate prices. I intend to stay there some of the year, and then rent out the home during the busiest of tourist times. We will be personally checking in all guests, verifying ID's, number of guests, and making sure they understand the rules of park point and the beach. I will prepare a 'welcome' book, including the Selected City Ordinances' handout that you provided me, and I will provide you a copy of my completed book once my construction is complete, permits are in place, and I am ready for guests – probably mid-to-late August.

Please let me know if anything else would help my application be approved.

Sincerely,


Mary DuBois

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DRAFT

**INTERIM USE PERMIT
FOR
VACATION DWELLING UNIT**

Permit Number: PL 14-069

Issued Date: June 30, 2014

Permit Holder:

Mary B. DuBois
51359 County Highway 54
New York Mills, MN 56567

Permit Location:

815 Lake Avenue S

Permit Terms:

1. The number of vacation dwelling units issued under this permit is 1.
2. The vacation dwelling unit consists of 3 bedrooms.
3. The total number of persons that may occupy the vacation dwelling unit is 7.
4. The number of off-street parking spaces provided for the vacation dwelling unit is 2.
5. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street.
6. The minimum rental period shall not be less than 5 nights during the period from June 15 to September 15. The minimum rental period shall not be less than 2 nights during the rest of the year.
7. The property owner must maintain all licenses and permits from the City of Duluth and State of Minnesota required for guest occupancy on the property for 3 to 21 days.
8. The interim use permit shall expire upon change in ownership of the property or in six years from the "issue date" listed above, whichever occurs first.
9. Permit holder must keep a guest record including the name, address, phone number, and vehicle (and trailer) license plate information for all guests and must provide a report to the City upon 48 hours' notice.
10. Permit holder must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the Land Use Supervisor within 10 days of a change in the managing agent or local contact's contact information.

Managing agent: Name

Address

Duluth, MN 55802

Phone

Email

11. Permit holder must provide the name, address, and phone number for the managing agent or local contact to all property owners within 100' of the property boundary. The permit holder must notify neighboring properties within 10 days of a change in the managing agent or local contact's contact information.
12. Permit holder must disclose in writing to their guests the following rules and regulations:
 - a. The managing agent or local contact's name, address, and phone number;
 - b. The maximum number of guests allowed at the property;
 - c. The maximum number of vehicles, recreational vehicles, and trailers allowed at the property and where they are to be parked;

- d. Property rules related to use of exterior features of the property, such as decks, patios, grills, recreational fires, pools, hot tubs, saunas and other outdoor recreational facilities;
 - e. Applicable sections of City ordinances governing noise, parks, parking and pets;
13. If a permit holder is cited for any nuisance event as described in Chapter 40, Article III of the Duluth Legislative Code, the Land Use Supervisor may suspend the Interim Use Permit for 90 days. If the permit holder is cited for any nuisance event a second time, the Interim Use Permit shall be revoked.
 14. Permit holder must post the permit number on all print, poster or web advertisements;
 15. Prior to rental, the building must be inspected and an Operational Permit issued by the Fire Prevention office. Permit holder must maintain the property in conformance with this permit and be granted permit renewals as required by the Fire Department.
 16. Prior to rental, the building must be inspected and the appropriate lodging license issued by the State of Minnesota and such licensure must be maintained.
 17. Permit holder must apply for and be granted State and local sales tax numbers, including Hotel and Motel Use Sales Tax. Permit holder must make required sales tax payments to State and local governments according to the terms established by each taxing authority.
 18. Permit holder must apply for and be granted a Hotel/Motel/B&B License from the City Clerk and must maintain licensure.
 19. Permit holder agrees that (a) approval of the permit will not result in increased costs to the City if the property is later acquired by the City through eminent domain; (b) the use will be terminated at the permit holder's expense upon change in ownership of the property or 6 years from the permit issue date, whichever occurs first, (c) the termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures of improvements related to the use, and (d) the applicant agrees to all conditions imposed by the City.

Attachments:

Site Map

Permit Holder

Land Use Supervisor

Date

Date

Please note:

Interim Use Permits approved by the City Council shall lapse if the project or activity authorized is not begun within 1 year of the permit date. The building official may extend this period one time for a period of up to 1 year if the property owner presents a written request showing the reasons for the delay was outside the owner's control (UDC Sec. 50-37.1.N).

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